

THE STATE OF TEXAS     §  
  §  
COUNTY OF TARRANT     §

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

## NO SURFACE USE OIL AND GAS LEASE

THIS NO SURFACE USE OIL AND GAS LEASE ("Lease") is made as of the 19 day of August, 2008 (the "Effective Date") by and between, John A. Berven and wife, Marlene A. Berven, as Lessor ("Lessor" whether one or more), whose address is: 705 Hillview Drive, Arlington, TX 76011, and Fleet Oil and Gas, Ltd., as Lessee, whose address is: 3000 Montgomery St., Fort Worth, Texas 76107. Lessor and Lessee are sometimes collectively referred to in this Lease as the "Parties".

1. **Leased Premises.** Lessor, in consideration of a cash bonus in hand paid by Lessee, the royalties herein provided, and the covenants, agreements and obligations of Lessee here contained, and subject to the conditions and limitations hereinafter set forth, hereby leases and lets, exclusively unto Lessee, for the purpose of exploring, drilling for, producing, and marketing oil and gas, the land in Tarrant County, Texas, described in Schedule A attached hereto and incorporated herein by reference (and referred to herein as "Said Land," the "Property," or the "Leased Premises"). The Leased Premises shall include all strips and gores, streets, easements, highways and alleyways adjacent thereto. Lessor agrees to execute at Lessee's request any additional or supplemental instruments reasonably necessary for a more complete or accurate description of the leased premises. For the purpose of determining the amount of any shut-in royalties hereunder, the number of gross acres specified on Schedule A shall be deemed correct, whether actually more or less.

2. **Term.** Subject to the other provisions contained herein, this Lease shall be for a term of thirty-six (36) months from the date hereof (the "primary term") and for as long thereafter as oil or gas or other substances covered hereby are produced in paying quantities from the Leased Premises or from lands pooled therewith, or this Lease is otherwise maintained in effect pursuant to the provisions hereof.

3. **Option Clause.** Notwithstanding anything to the contrary herein, Lessee is hereby granted the exclusive option, to be exercised prior to the date which this Lease or any portion thereof would expire in accordance with its terms and provisions, of extending this Lease for an additional period of two (2) years as to all or any portion of the acreage of the Leased Premises. The only action required by Lessee to exercise this option being payment to Lessor of an additional consideration of the sum equal to the original cash bonus paid to Lessor as a bonus for signing the Lease, which payment shall cover the entire two (2) year extended primary term. Should this option be exercised as herein provided, it shall be considered for all purposes as though this Lease originally provided for a primary term of five (5) years. If this Lease is extended as to only a portion of the acreage then covered thereby, Lessee shall designate such portion by a recordable instrument.

4. **Minerals Covered.** For purposes of this Lease, "oil and gas" means oil, gas and other liquid and gaseous hydrocarbons and their constituent elements produced through a well bore. "Oil" includes all condensate, distillate and other liquid and gaseous hydrocarbons produced through a well bore. "Gas" includes helium, carbon dioxide and other commercial gases, as well as hydrocarbon gases. Expressly excluded from this Lease are lignite, coal, sulfur and other like minerals. Lessee shall have no rights to water in, on, or under lands of Lessor.

5. **Royalty.** Royalties on oil, gas and other substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) for oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be Twenty-Five Percent (25%) of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead market price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity; and (b) for gas (including casinghead gas) and all other substances covered hereby, the royalty shall be Twenty-Five Percent (25%) of the proceeds realized by Lessee from the sale thereof, computed at the point of sale, provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) pursuant to comparable purchase contracts entered into on the same or nearest preceding date as the date on which Lessee commences its purchases hereunder.

Royalties on oil, gas and other substances produced and saved hereunder which are processed in a processing plant in which Lessee, or an affiliate of Lessee, has a direct or indirect interest, shall be calculated based upon the highest of the proceeds received or the market value of the products so processed. Similarly, on oil, gas and other substance produced and saved hereunder which are sold to Lessee, or an affiliate of Lessee, royalties shall be paid based upon the higher of the market value of the products so sold and the proceeds received by Lessee for said products. Notwithstanding anything to the contrary herein, in no event shall any of Lessor's royalty bear any part of the costs of production or any post-production costs, including costs of lifting, gathering, dehydration, compression, separation, delivery, transportation, manufacture, processing, treating or marketing, or for construction, operation or depreciation of any plant or other facility or equipment for processing or treating oil or gas produced from the leased premises or lands pooled therewith. In no event shall Lessor receive a price less than Lessee in sales to nonaffiliates. However, any additional transportation cost for transporting oil, gas or other products to a point of sale other than the first interconnect with a non-affiliated third party which results in enhancing the value of the marketable oil, gas or other products to receive a better price may be deducted pro rata from Lessor's share of production as long as they are based on Lessee's actual transportation costs. In no event shall Lessor receive a price that is less than, or more than, the price received by Lessee from that purchaser. It is the intent of the parties that the provisions of this section are to be fully effective and enforceable and are not to be construed as "surplusage" under the principles set forth in Heritage Resources v. NationsBank, 939 S.W.2d 118 (Tex. 1997).

As used herein, "affiliate" means (i) a corporation, joint venture, partnership or other entity that owns more than 10 percent (10%) of the outstanding voting interest of Lessee or in which Lessee owns more than ten percent (10%) of the outstanding voting interest; or (ii) a corporation, joint venture, partnership or other entity in which, together with Lessee, more than 10 percent (10%) of the outstanding voting interest of both the Lessee and the other corporation, joint venture, partnership or other entity is owned or controlled by the same person or group of persons.

Lessee must disburse or cause to be disbursed to Lessor its royalty on production from a particular well not later than one hundred twenty (120) days after the end of the month following first delivery of gas from the well into the pipeline. Thereafter, Lessee must disburse or cause to be disbursed to Lessor by the last day of each month its royalty on production for which Lessee received payment in the preceding month, but in no event shall royalty be paid more than sixty (60) days after the last day of the month of production. If not paid when due, Lessor's royalty shall bear interest at the maximum lawful rate from due date until paid, which amount Lessee agrees to pay. Acceptance by Lessor of royalties that are past due shall not act as a waiver or estoppel of its right to receive interest due thereon unless Lessor expressly so provides in writing signed by Lessor.

The receipt by Lessee, or Lessee's operator, from a purchaser or a pipeline company of proceeds of production for distribution to Lessor will not result in Lessee, or Lessee's operator, acquiring legal or equitable title to those proceeds, but Lessee, or Lessee's operator, will at all times hold the proceeds in trust for the benefit of Lessor. Notwithstanding the insolvency, bankruptcy, or other business failure of a purchaser of production from Said Land or pipeline company transporting production from Said Land, Lessee will remain liable for payment to Lessor for, and agrees to pay Lessor all royalties due Lessor together with interest if not timely paid. Lessor retains the right to terminate the Lease for failure to pay royalties, after a period of written notice and opportunity to cure which shall not exceed sixty (60) days.

Gas produced from Said Land or pooled unit that Said Land is included therewith shall not be commingled with gas produced from any other lands prior to the point where the gas produced from this Lease passes through the meter which will measure the gas for calculating the payment made by the purchaser of gas production.

6. **Shut-in Royalty.** If at the end of the primary term or any time thereafter one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut-in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this Lease. A well that has been drilled but not fraced shall be deemed incapable of producing in paying quantities. If for a period of ninety (90) consecutive days such well or wells are shut-in or production therefrom is not being sold by Lessee, then Lessee shall pay shut-in royalty of twenty-five dollars (\$25.00) per

acre then covered by this lease on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut-in or production therefrom is not being sold by Lessee; provided, however, that if this Lease is otherwise being maintained by operations, or if production is being sold by Lessee from another well or wells on the leased premises or lands pooled therewith, no shut-in royalty shall be due until the end of the 90-day period next following cessation of such operations or production. Notwithstanding anything to the contrary herein, it is expressly understood and agreed that after the expiration of the primary term, Lessee shall not have the right to continue this Lease in force by payment of shut-in royalty for more than one single period of up to two (2) consecutive years.

7. **Payments.** All shut-in or other royalty payments under this Lease shall be paid or tendered to Lessor at the address herein, or at such address or to Lessor's credit at such depository institution as Lessor may provide written notice of from time to time. All payments or tenders may be made by check or electronic transfer.

8. **Continuous Drilling Obligations.** If Lessee drills a well which is incapable of producing in paying quantities (a "dry hole") on the Leased Premises or lands pooled therewith, or if all production (whether or not in paying quantities) permanently ceases from any cause, including a revision of unit boundaries pursuant to the provisions of Section 9 or the action of any government authority, then in the event this Lease is not otherwise being maintained in force it shall nevertheless remain in force if Lessee commences operations for reworking an existing well or for drilling an additional well or for otherwise obtaining or restoring production on the Leased Premises or lands pooled therewith within ninety (90) days after completion of operations on such dry hole or within ninety (90) days after such cessation of all production. If at the end of the primary term, or at any time thereafter, this Lease is not otherwise being maintained in force but Lessee is then engaged in drilling, reworking or any other operations reasonably calculated to obtain or restore production therefrom, this Lease shall remain in force so long as any one or more of such operations are prosecuted with no cessation of more than ninety (90) consecutive days, and if any such operations results in the production of oil or gas or other substances covered hereby, as long thereafter as there is production in paying quantities from the Leased Premises or lands pooled therewith. After completion of a well capable of producing in paying quantities hereunder, Lessee shall drill such additional wells on the Leased Premises or lands pooled therewith as a reasonably prudent operator would drill under the same or similar circumstances (a) to develop the Leased Premises as to formations then capable of producing in paying quantities on the Leased Premises or lands pooled therewith, or (b) to protect the Leased Premises from uncompensated drainage by any well or wells located on other lands not pooled therewith. There shall be no covenant to drill exploratory wells or any additional wells except as expressly provided herein.

9. **Pooling.** Lessee shall have the right but not the obligation to pool all or any part of the Leased Premises or interests therein with any other lands or interests, and as to any or all substances covered by this lease, either before or after the commencement of production, whenever Lessee deems it necessary or proper to do so in order to prudently develop or operate the Leased Premises, whether or not similar pooling authority exists with respect to such other lands or interests; provided, however, that the entire Leased Premises covered by this Lease, shall be included in any unit created pursuant to the pooling authority granted herein. The unit formed by such pooling for an oil well which is not a horizontal completion shall not exceed eighty (80) acres plus a maximum acreage tolerance of ten percent (10%), and for a gas well or a horizontal completion, shall not exceed six hundred forty (640) acres plus a maximum acreage tolerance of ten percent (10%). For the purpose of the foregoing, the terms "oil well" and "gas well" shall have the meanings prescribed by applicable law or the appropriate governmental authority, or if no definition is so prescribed, "oil well" means a well with an initial gas-oil ratio of less than 100,000 cubic feet per barrel and "gas well" means a well with an initial gas-oil ratio of 100,000 cubic feet or more per barrel, based on 24-hour production test conducted under normal producing conditions using standard lease separator facilities or equivalent testing equipment and "horizontal completion" means a well in which the horizontal component of the gross interval in the reservoir exceeds the vertical component thereof. In exercising its pooling rights hereunder, within ninety (90) days of first production, Lessee shall file of record a written declaration describing the unit and stating the effective date of pooling which may be retroactive to first production. In the event Lessor's acreage is included in a well, all of Lessor's acreage shall be included. Production, drilling or reworking operations anywhere on a unit which includes the leased premises shall be treated as if it were production, drilling or reworking operations on the leased premises, except that the production on which Lessor's royalty is calculated shall be that proportion of the total unit production which the mineral acres covered by this Lease and included in the unit bears to the total number of mineral acres included in the unit.

Pooling in one or more instances shall not exhaust Lessee's pooling rights hereunder, and Lessee shall have the recurring right but not the obligation to revise any unit formed hereunder by expansion or contraction or both, either before or after commencement of production, in order to conform to the well spacing or density pattern prescribed or permitted by the governmental authority having jurisdiction, or to conform to any productive acreage determination made by such governmental authority. In making such a revision, Lessee shall file of record a written declaration describing the revised unit and stating the effective date of revision. If the leased premises are included in or excluded from the unit by virtue of such revision, the proportion of unit production on which royalties are payable hereunder shall thereafter be adjusted accordingly. In the absence of production in paying quantities from a unit, or upon permanent cessation thereof, Lessee may terminate the unit by filing of record a written declaration describing the unit and stating the date of termination. Pooling hereunder shall not constitute a cross-conveyance of interests.

10. **Assignment.** The interest of either Lessor or Lessee hereunder may be assigned, devised or otherwise transferred in whole or in part, by area and/or by depth or zone, and the rights and obligations of the parties hereunder shall extend to their respective heirs, devisees, executors, administrators, successors and assigns. No change in Lessor's ownership shall have the effect of reducing the rights or enlarging the obligations of Lessee hereunder, and no change in ownership shall be binding on Lessee until thirty (30) days after Lessee has been furnished the original or certified or duly authenticated copies of the documents establishing such change of ownership to the reasonable satisfaction of Lessee or until Lessor has satisfied the notification requirements contained in Lessee's usual form of division order.

11. **Release and Vertical Pugh Clause.** Lessee may, at any time and from time to time, deliver to Lessor a file of record written release of this Lease as to a full or undivided interest in all or any portion of the area covered by this Lease or any depths or zones thereunder, and shall thereupon be relieved of all obligations thereafter arising with respect to the interest so released. If Lessee releases all or an undivided interest in less than all of the area covered hereby, Lessee's obligation to pay or tender shut-in royalties shall be proportionately reduced in accordance with the net acreage interest retained hereunder. In any event, upon termination of this Lease, Lessee, its successors or assigns shall deliver to Lessor a recorded release within sixty (60) days as to such portion or portions of this Lease which have terminated under the terms of this Lease. Upon the expiration of the primary term of this Lease, upon the expiration of any extension or renewal of the primary term, or after cessation of operations as provided herein, whichever occurs last, this Lease shall terminate as to all rights lying below one hundred feet (100') below either (1) the deepest depth drilled in any well drilled on the leased premises or on lands pooled therewith or (2) the stratigraphic equivalent of the base of the Barnett Shale formation producing or capable of producing in any well drilled on the leased premises or on lands pooled therewith, whichever is the deepest; provided, however, if Lessee is then engaged in operations on the leased premises or on lands pooled therewith, this Lease shall remain in full force and effect as to all depths so long as no more than ninety (90) days elapse between operations.

12. **No Surface Use.** Notwithstanding anything to the contrary in this Lease, Lessee shall not enter upon the surface of, cross over, place any structure or building upon or conduct any operations (including but not limited to geophysical/seismic operations) on the Leased Premises or within six hundred feet (600') of the Leased Premises or any other residential structure located within the same subdivision or neighborhood addition as the Leased Premises. Lessee shall only develop the leased premises by pooling, as provided herein, or by directional or horizontal drilling commenced from a surface location on other lands. Notwithstanding anything to the contrary in the Lease, Lessee has no right to drill horizontally, vertically, or at an angle under the Leased Premises at any depth that is less than three hundred (300) feet below the surface. Lessee has no right to pipe, transmit, or transport gas under the leased Premises at any depth that is less than three hundred (300) feet below the surface. Lessor agrees that Lessee shall have the sole and exclusive right to use the subsurface below the land for exploring for or producing oil and gas and Lessor shall not have the right to lease or grant a subsurface easement to any party as to any depth below twenty-five (25) feet below the surface of the land. Lessee shall make all reasonable efforts not to use residential or neighborhood streets or thoroughfares in developing the Leased Premises, any lands pooled therewith or otherwise.

13. **Noise.** Noise levels associated with Lessee's operations related to the drilling, completion and reworking of wells shall be kept to a reasonable minimum, taking into consideration reasonably available equipment and technology in the oil and gas industry, the level and nature of development and surface use elsewhere in the vicinity of Lessee's drill sites and the fact Lessee's operations are being conducted in or near an urban residential area. If Lessee utilizes any non-electric-powered equipment in its operations, Lessee shall take reasonable steps to muffle the sound therefrom by installing a noise suppression muffler or like equipment.

14. **Regulatory Requirements and Force Majeure.** Lessee's obligations under this Lease, whether express or implied, shall be subject to all applicable laws, rules, regulations and orders of any governmental authority having jurisdiction, including environmental regulations, setback requirements, restrictions on the drilling and production of wells, and the price of oil, gas and other substances covered hereby. To the extent any such laws, rules, regulations or orders are less restrictive than the terms of this Lease, this Lease shall control. The breach of this paragraph will be considered a material breach of the Lease. When drilling, reworking, production or other operations are prevented or delayed by such laws, rules, regulations or orders, or by inability to obtain necessary permits, equipment, services, material, water, electricity, fuel, access or easements, or by fire, flood, adverse weather conditions, war, sabotage, rebellion, insurrection, riot, strike or labor disputes, or by inability to obtain a satisfactory market for production or failure of purchasers or carriers to take or transport such production, or by any other cause not reasonably within Lessee's control, this Lease shall not terminate because of such prevention or delay. Lessee shall not be liable for breach of any express or implied covenants of this Lease when drilling, production or other operations are so prevented, delayed or interrupted. Lessee shall take all reasonable actions to remove or end any cause of force majeure as soon as

reasonably possible. In no event shall this Lease be perpetuated by an event of force majeure for a period of more than one (1) consecutive year or three (3) years of cumulative time. No obligation of Lessee to pay money that has accrued and was due before the Force Majeure event occurred under this Lease will be excused or delayed by reason of such Force Majeure event.

15. Environmental Compliance. Lessee shall use the highest degree of care and all reasonable safeguards to prevent contamination or pollution of any environmental medium, including soil, surface waters, groundwater, sediments, and surface or subsurface strata, ambient air or any other environmental medium in, on, or under, Said Lands or lands pooled therewith, by any waste, pollutant, or contaminant. Lessee shall not bring or permit to remain on Said Lands or lands pooled therewith, any asbestos containing materials, explosives, toxic materials, or substances regulated as hazardous wastes, hazardous materials, hazardous substances (as the term "Hazardous Substance" is defined in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. Sections 9601, et seq.) or toxic substances under any federal, state or local law or regulation ("Hazardous Materials"), except ordinary products commonly used in connection with oil and gas exploration and development operations and stored in the usual manner and quantities. LESSEE'S VIOLATION OF THE FOREGOING PROHIBITION SHALL CONSTITUTE A MATERIAL BREACH AND DEFAULT HEREUNDER AND LESSEE SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND LESSOR, ITS AGENTS, EMPLOYEES, TENANTS, GUESTS, INVITEES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS FROM AND AGAINST ANY CLAIMS, DAMAGES, JUDGMENTS, PENALTIES, LIABILITIES, AND COSTS (INCLUDING REASONABLE ATTORNEY'S FEES AND COURT COSTS) CAUSED BY OR ARISING OUT OF (1) A VIOLATION OF THE FOREGOING PROHIBITION OR (2) THE PRESENCE, RELEASE OR DISPOSAL OF ANY HAZARDOUS MATERIALS ON, UNDER OR ABOUT SAID LANDS POOLED THEREWITH DURING LESSEE'S OCCUPANCY OR CONTROL OF SAME. LESSEE SHALL CLEAN UP, REMOVE, REMEDY, AND REPAIR ANY SOIL OR GROUND WATER CONTAMINATION AND DAMAGE CAUSED BY THE PRESENCE OR RELEASE OF ANY HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT SAID LANDS OR LANDS POOLED THEREWITH DURING LESSEE'S OCCUPANCY OF SAME IN CONFORMANCE WITH THE REQUIREMENTS OF APPLICABLE LAW. THIS INDEMNIFICATION AND ASSUMPTION SHALL APPLY, BUT IS NOT LIMITED TO, LIABILITY FOR RESPONSE ACTIONS UNDERTAKEN PURSUANT TO CERCLA OR ANY OTHER ENVIRONMENTAL LAW OR REGULATION. LESSEE SHALL IMMEDIATELY GIVE LESSOR WRITTEN NOTICE OF ANY BREACH OR SUSPECTED BREACH OF THIS PARAGRAPH, UPON LEARNING OF THE PRESENCE OF ANY HAZARDOUS MATERIALS, OR UPON RECEIVING A NOTICE PERTAINING TO HAZARDOUS MATERIALS WHICH MAY AFFECT SAID LANDS OR LAND POOLED THEREWITH. THE OBLIGATIONS OF LESSEE HEREUNDER SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION FOR ANY REASON, OF THIS LEASE.

16. Indemnity. LESSEE AGREES TO INDEMNIFY AND HOLD HARMLESS LESSOR, AND LESSOR'S REPRESENTATIVES, SUCCESSORS, AND ASSIGNS AGAINST ALL EXPENSES, CLAIMS, DEMANDS, LIABILITIES, AND CAUSES OF ACTION OF ANY NATURE FOR INJURY TO OR DEATH OF PERSONS AND LOSS OR DAMAGE TO PROPERTY, INCLUDING, WITHOUT LIMITATION, ATTORNEY'S FEES, EXPERT FEES, AND COURT COSTS, CAUSED BY LESSEE'S OPERATIONS ON SAID LAND OR LANDS POOLED THEREWITH OR LESSEE'S MARKETING OF PRODUCTION FROM THE LAND OR ANY VIOLATION OF ANY ENVIRONMENTAL REQUIREMENTS BY LESSEE. AS USED IN THIS PARAGRAPH, THE TERM "LESSEE" INCLUDES LESSEE, ITS AGENTS, EMPLOYEES, SERVANTS, CONTRACTORS, AND ANY OTHER PERSON ACTING UNDER ITS DIRECTION AND CONTROL, AND ITS INDEPENDENT CONTRACTORS.

17. Notices. All notices required or contemplated by this Lease shall be directed to the party being notified at the address identified in herein, unless notice of another address has been provided in writing. All such notices shall be made by registered or certified mail, return receipt requested, unless another means of delivery is expressly stated.

18. No Warranty of Title. Lessor makes no warranty of any kind with respect to title to the surface or mineral estate in the leased premises or any portion of or interest therein. All warranties that might arise by common law or by statute, including but not limited to Section 5.023 of the Texas Property Code (or its successor), are excluded. By acceptance of this Lease, Lessee acknowledges that it has been given full opportunity to investigate and has conducted sufficient investigation to satisfy itself as to the title to the leased premises. Lessee assumes all risk of title failures.

19. Curing Defaults. Should Lessee at any time fail to comply with its obligations hereunder regarding construction, maintenance, or repair, Lessor shall notify Lessee in writing its failure to comply with such obligations, and upon such written notice, Lessee shall have sixty (60) days to fulfill its obligations, or, Lessor shall have the right, to do or have done whatever is necessary to fulfill the obligations to its satisfaction, and Lessee shall be liable to Lessor for the reasonable and necessary expenses thus incurred by Lessor, to be paid within sixty (60) days after Lessor shall have furnished Lessee an itemized written statement of the expenses.

20. Venue and Legal Fees. Venue for any dispute arising under this Lease shall lie in Tarrant County, Texas, where all obligations under this Lease are performable. At any time that any obligation of the Lessee to make a payment shall not be complied with in accordance with the terms of the Lease, it is agreed and understood that Lessee will pay to Lessor interest thereon at the highest lawful rate allowed to be charged to Lessee by Lessor under the then existing Statutes of the State of Texas. In addition, in the event of the breach of any provision of the Lease, Lessee shall pay to Lessor all costs and expenses reasonably incurred including attorney's fees and costs of court incurred by Lessor for the enforcement of the provisions of this Lease. It is agreed and understood that time is of the essence in the performing of each responsibility under the terms of this Lease.

21. Records. Lessee shall keep complete and accurate records of all its operations relating to or affecting the Leased Premises, and the results thereof, including but not limited to: all geophysical, geological, geochemical and paleontological data and interpretations or analyses thereof; all land surveys, title opinions and title curative material; all drilling, coring, logging, testing and completion records; all production records showing the total gross production, the quantities saved, sold and used, the disposition thereof, and the sales prices or values thereof; all production sales contracts; and such other records and as may be proper for the settlement of accounts between Lessor and Lessee or to determine the respective rights and obligations of said parties hereunder. During the primary term of this Lease and for as long as oil and gas is produced therefrom, and for a period of one (1) year thereafter, Lessee shall make all of such records and data available to Lessor or Lessor's designee for examination and copying in Lessee's offices at all reasonable times, as well as all other records, notes, charts, graphs, maps, contracts, documents, papers, and other material in the possession of or under the control of the Lessee and pertaining to the Leased Premises.

22. Division Orders. It is agreed that neither the Lease nor any of its terms or provisions shall be altered, amended, extended, or ratified by any division order or transfer order executed by Lessor, Lessor's successors, agents, or assigns. If Lessee shall require the execution of a division order for payment of royalty payable under the Lease, then the only form of division order permitted for Lessee's use shall be such form promulgated by the State of Texas and set forth in Section 91.402(d) of the Texas Natural Resources Code as amended from time to time. Any amendment, alteration, extension or ratification of this Lease, or of any term or provision of this Lease, shall be made only by an instrument clearly denominating its purpose and effect, describing the specific terms or provisions affected and the proposed change or modification hereof, and executed by the party against whom any such amendment, alteration, extension or ratification is sought to be enforced. Any purported amendment, alteration, extension or ratification not so drafted shall be of no force or effect.

23. Subordination Agreement Fees. Notwithstanding anything contained herein to the contrary, neither Lessee nor Lessee's assigns shall ever require a subordination, partial release of lien, release of lien, consent or other documentation from any lender of Lessor that has a lien on said land as a condition to Lessor receiving any subsequent royalty payment, unless the well bore penetrates the leased premises, in which case Lessee shall notify Lessor. However, Lessor will cooperate with any reasonable effort of Lessee to obtain same from Lessor's lender on behalf of Lessor.

24. Miscellaneous. This Lease is entered into in the State of Texas and shall be construed, interpreted and enforced in accordance with the laws of the State of Texas without reference to choice-of-law rules. Should any of the provisions herein be determined to be invalid by a court of competent jurisdiction, it is agreed that this shall not affect the enforceability of any other provision herein and that the parties shall attempt in good faith to renegotiate that provision so determined to be invalid to effectuate the purpose of and to conform to the law regarding such provision. The section titles appearing in this Lease are for convenience only and shall not by themselves determine the construction of this Lease. This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Singular and plural terms, as well as terms stated in the masculine, feminine or neuter gender, shall be read to include the other(s) as the context requires to effectuate the full purposes of this Lease.

"The rights of Lessor under this Lease shall be in addition to, and not in lieu of, all rights Lessor may have as to payment of royalty under Texas law, including, without limitation, V.T.C.A. NATURAL RESOURCES CODE § § 91.401 through 91.405."

IN WITNESS WHEREOF, this Lease is executed to be effective as of the date first written above, but upon execution shall be binding on each signatory and the signatory's heirs, devisees, executors, administrators, successors and assigns, whether or not this Lease has been executed by all parties hereinabove named as Lessor.

SEE SCHEDULE "A" ATTACHED HERETO AND BY REFERENCE MADE A PART HEREOF.

LESSEE:

Fleet Oil and Gas, Ltd.

By: Todd Greenfield  
Todd Greenfield, Authorized Representative

LESSORS:

John A. Berven  
John A. Berven

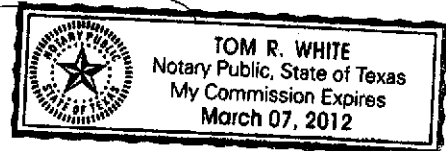
By: Marlene A. Berven  
Marlene A. Berven

ACKNOWLEDGMENTS

THE STATE OF TEXAS §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on this 19 day of August 2008, by John A. Berven, the Lessor(s).

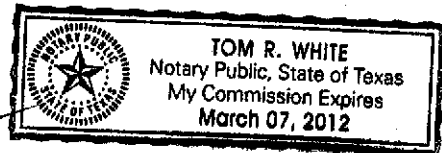
[Signature]  
Notary Public, State of Texas



THE STATE OF TEXAS §  
COUNTY OF TARRANT §

This instrument was acknowledged before me on this 19 day of August 2008, by Marlene A. Berven, the Lessor(s).

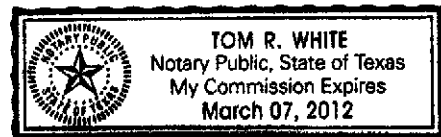
[Signature]  
Notary Public, State of Texas



THE STATE OF TEXAS §  
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This instrument was acknowledged before me on this 19 day of August 2008, by Todd Greenfield, authorized representative of Fleet Oil and Gas, Ltd., the Lessee.

[Signature]  
Notary Public, State of Texas



After Recording Return To:  
Fleet Oil and Gas, Ltd.  
3000 Montgomery St.  
Fort Worth, TX 76107

Schedule "A"

Attached to and by reference made a part of that certain Oil & Gas Lease dated 08/19/08, 2008 by and between John A. Berven and wife, Marlene A. Berven, as Lessor and Fleet Oil and Gas, Ltd., as Lessee.

A .3039 acre tract of land, more or less, being described as Lot 12, Block 1, of TREETOP ADDITION, a subdivision in the City of Arlington, Tarrant County, Texas, according to the Final Plat thereof recorded in Volume 388-132, Page 78, Plat Records, Tarrant County, Texas.

EXHIBIT "B"

**THIS EXHIBIT "B" IS INCORPORATED INTO AND MADE A PART OF THE BODY OF THE PRINTED FORM OF LEASE TO WHICH IT IS HERETO ATTACHED.**

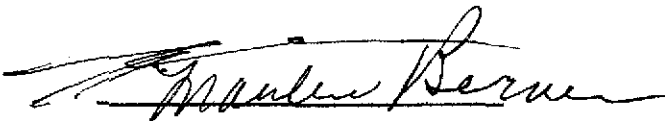
**Notwithstanding anything contained in the body of the printed form of lease to the contrary, Lessor and Lessee do hereby understand and agree as follows:**

- 1) If a unit is pooled that contains the acreage owned by the City of Arlington commonly known as the Ditto Golf Course acreage (further described herein below), and the leased premises described in Schedule "A" and attached to the body of the printed form of the lease attached hereto are not pooled into a unit with the Ditto Golf Course acreage within the applicable time frames contained in the applicable lease(s), Lessor will have the option, for a period of thirty (30) days beginning upon receipt of notice of such pooling, to refund to Lessee and its successors and assigns the entire amount of any bonus consideration received for the lease. If Lessor so chooses to timely refund the full amount of the bonus consideration pursuant to this paragraph, Lessee, and its successors and assigns, shall then release this lease as to all acreage covered by this lease and that is not pooled into the unit containing the Ditto Golf Course acreage (which is more particularly described by metes and bounds in Exhibit "A" of that certain Memorandum of Oil and Gas Lease filed for record on July 18, 2008, and recorded as instrument #D208281344).
- 2) Paragraph 3 contained in the body of the printed form of the lease attached hereto and providing for an option to extend the primary term of the lease is hereby stricken and deleted in its entirety.

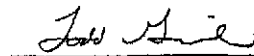
**Lessor:**

**Lessee:**

**Fleet Oil and Gas, Ltd.**



**By:**



**Todd Greenfield**

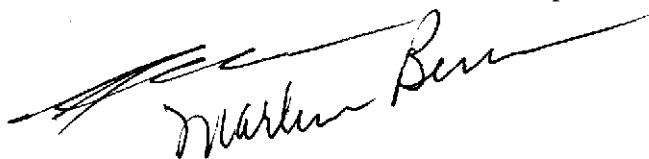
**Authorized Representative**

## ADDENDUM

This addendum is attached to and made a part of the Oil and Gas Lease, dated July 19, 2008 between John A. Berwen and wife, Marlene A. Berwen as "Lessor", and Fleet Oil and Gas, Ltd., as "Lessee".

This addendum pertains to and is made a part of "Point 10. Assignments" of said Oil and Gas Lease. Upon any and all assignment or sublease, (with the exception of assignments made to officers or directors of Lessee) of this lease by Lessee as it may pertain in any way to drilling or gas drilling operations at the location described in City of Arlington Special Use Permit 08-5 (SUP08-5), the Environmental Drilling Requirements below shall supercede and replace "Point 29 Environmental and Operational Provisions" of this lease for any of Lessee's assignees or sublessees. With regard to any well drilled within 1,000 feet of said Land, sublessee or assignee shall abide by the following Environmental Drilling Requirements:

1. Any gas well bore hole shall be a minimum of 600 feet from any single-family residential property.
2. Entry road shall be constructed of concrete or similar material with the placement of a mud-shaker near the entrance to a city street to prevent the tracking of dust, rock, or mud into the street.
3. Any unpaved area of the pad site shall be treated with a chemical dust suppressant agent upon construction, as needed during drilling period, and annually thereafter.
4. During drilling and fracing operations, the pad site shall be surrounded by a noise abatement barrier/blanket with a minimum height of a 24 ft.
5. The following drilling site elements shall be surrounded by a noise abatement barrier/blanket:
  - o Rig substructure
  - o Rig floor area
  - o Brake drum housings
  - o Mud pumps
  - o Diesel motors
  - o Generators
6. Any exhaust from an internal combustion engine or compressor, stationary or mounted on wheels, must be controlled through the utilization of a "hospital" grade muffler or equivalent control device.
7. All workover operations shall be restricted to the requirements of this Addendum and City Ordinance. "Workover operations" shall mean work performed in a well after its completion in an effort to secure production where there has been none, restore production that has ceased or increase production.
8. Prior to beginning operation, an ambient noise study shall be prepared, at lessor's expense, to determine separate day and nighttime, 48-hour average, ambient noise levels. These levels shall be determined at the closest residential point and shall be the ambient noise level baselines. Nighttime ambient noise levels shall not exceed the predetermined, 48-hour baseline ambient noise level + 3 decibels.
9. Exterior noise levels shall be continuously monitored to ensure compliance. The noise readings shall be submitted to the City on a weekly basis unless issues with residential noise arises.
10. During nighttime operations, the operation of vehicle audible back-up alarms shall be prohibited or replaced with approved non-auditory signaling systems, such as spotters or flagmen. Deliveries of pipe, casing and heavy loads shall be limited to daytime hours, except for emergency situations. The Derrick Man and Driller shall communicate by walked-talkie or other non-disruptive means only with the Derrick Man is in the derrick. Horns may not be used to signal for connection or to summon crew (except that a horn may be used for emergency purposes only). All lights shall be pointed inward toward derrick. OSHA and Texas Railroad Commission Safety Requirements shall govern if they conflict with this item.
11. A closed loop mud system shall be required.
12. Upon completion of drilling and fracing, at time of final production the pad site shall be surrounded by a solid masonry wall, with appropriate landscaping.
13. During pad construction, erosion control measures, including the installation of a boundary silt fence shall be required.
14. The location of any compression equipment on-site shall be limited to such equipment necessary to operate the permitted gas wells. No regional compression equipment shall be permitted. Any compression equipment shall be installed to meet ambient noise levels at the pad boundary.

  
Marlene Berwen



FLEET OIL & GAS LTD  
3045 LACKLAND RD

FT WORTH TX 76116

Submitter: FLEET OIL & GAS

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SUZANNE HENDERSON  
TARRANT COUNTY CLERK  
TARRANT COUNTY COURTHOUSE  
100 WEST WEATHERFORD  
FORT WORTH, TX 76196-0401

**DO NOT DESTROY**  
**WARNING - THIS IS PART OF THE OFFICIAL RECORD.**

Filed For Registration: 08/29/2008 01:58 PM  
Instrument #: D208339656  
LSE 8 PGS \$40.00

By: \_\_\_\_\_



**D208339656**

ANY PROVISION WHICH RESTRICTS THE SALE, RENTAL OR USE  
OF THE DESCRIBED REAL PROPERTY BECAUSE OF COLOR OR  
RACE IS INVALID AND UNENFORCEABLE UNDER FEDERAL LAW.

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